IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL NO 1020 of 2005
to
FIRST APPEAL NO 1041 of 2005

For Approval and Signature:

HON'BLE MR.JUSTICE B.J.SHETHNA
and
HON'BLE MR.JUSTICE M.C.PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

SPL.LAQ OFFICER

Versus

KESURBHAI BECHARBHAI PATEL

Appearance:
1. First Appeal No. 1020 to 1041 of 2005
MR AD OZA, GP with MR SIRAJ GORI, AGP for Appellant No.
MR TRILOK J PATEL for Respondent No. 1
..... for Respondent No. 2

CORAM : HON'BLE MR.JUSTICE B.J.SHETHNA
and
HON'BLE MR.JUSTICE M.C.PATEL

Date of decision: 05/05/2005

ORAL JUDGEMENT

(Per : HON'BLE MR.JUSTICE B.J.SHETHNA)

1. All these Appeals are admitted. Learned Counsel Shri Patel for the respondents - claimants waive Notice. On the request of learned Counsel for the parties all these matters are taken up for final disposal and disposed of by this common order as they are arising out of the impugned common Judgment and Award passed by the Reference Court.

2. Heard learned Government Pleader Shri A.D.Oza and learned AGP Shri Gori for the appellant in all these Appeals and Shri J.M.Patel, learned Counsel for the respondents.

3. In the instant case the Notification u/s.4 of the Land Acquisition Act was issued on 18.12.1986, followed by Notification u/s.6 on 13.9.1987. The land of the respondents - claimants were acquired long back. Land Acquisition Officer passed the award and awarded Rs.220/per Are in Compensation case No.32/86 and Rs.250/- per Are in Compensation Case No.36/88 against the claim of the claimant of Rs.2200/- per Are. Aggrieved of the same the claimant approached the 2nd Joint Civil Judge (SD), Vadodara, by way of Land Reference Case Nos.279 to 292 of 1992 and 293 to 300 of 1992 and claimed remaining amount from the Reference Court. The Reference Court by its impugned Common Judgment and Award dated 30.11.2002 allowed all the reference cases and held that the claimants were entitled to get market price of their land at the rate of Rs.2000/- per Are and accordingly awarded additional amount of Rs.1750/- and 1780/- per Are in Compensation Case No.32/86 and 36/88 respectively. The same is challenged by the Appellants in all these Appeals.

4. Learned Government Pleader Shri A.D.Oza for the appellant in all these Appeals vehemently submitted that though the impugned common judgment and award passed by the Reference Court running into 16 type pages, practically while allowing Reference Cases filed by the claimant the Reference Court has not assigned any reasons in its order and straightway the Reference Court fully allowed the reference cases and awarded Rs.2000/- per Are to the claimant. He, therefore, submitted that the best course should be to quash and set aside the Judgment and Award and remand the matter to the learned Judge for his reconsideration with a direction to decide the same by giving, at least, brief reasons for awarding such amount. Shri Oza further submitted that for this very village i.e. village Puniyad such Judgment and Award passed by the Reference Court was set aside and the matters were remanded by this very court recently last month i.e. on

5.4.2005. He has produced the copy of Judgment and order dated 5.4.2005 passed in First Appeal No.3014/04 to 3035/04.

5. In view of the above, Shri Patel, learned Counsel for the respondents - claimants was hardly in a position to submit that the impugned Judgment and Award passed by the Reference Court be up-held. It must be stated that Shri Patel tried to submit that when there is an evidence then this Court should exercise its own power and dismiss the Appeal after appreciating the same. This course was also permissible, but when for this very village notification issued u/s.4, other matters have already been remanded to the Reference Court then we are of the considered opinion that instead of deciding these matters here on merit it would be proper if all these matters are remanded to the Reference Court.

6. In view of the above discussion, all these Appeals are allowed in terms of the Judgment and Order dated 5.4.2005 delivered by this Court in First Appeal No.3014 to 3035 of 2004 and the common Judgment and Award dated 30.11.2002 passed by the learned 2nd Jt. Civil Judge (SD), Vadodara is hereby quashed and set aside and all the reference Cases No.270 to 302 of 1979 are remanded to the Reference Court with a direction to reconsider and decide the same afresh strictly in accordance with law on the basis of entire material and evidence on record of the case. It is hope and trust that if the Reference Court is of the considered opinion that the claimants are entitled for Rs.2000/- then the Reference Court shall give its brief reasons for the same. The matters are old, therefore, the Reference Court shall try to decide all the cases as early as possible and not later than 31.10.2005. The parties shall fully cooperate with the Reference court and they shall not ask for any unnecessary adjournment.

All the Appeals are allowed accordingly with no order as to costs.

Once the matters are remanded to the Reference Court then it will be open to the respective parties to lead any evidence available to them.

(B.J.Shethna, J.)
Date : May 05, 2005
(M. C. Patel, J.)
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